



MSK.P-031-US/NP
PATENT APPLICATION

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P.2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Fong et al.
Serial No.: 09/381,556
International Filing Date: 1/5/00
For : Rapid Production of Autologous Tumor Vaccines
Examiner: A. Wehbe
Art Unit: 1632

TECH CENTER 1600/2900

AUG 08 2002

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Asst. Commissioner for Patents
Washington, D.C. 20231

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RESPONSE TO RESTRICTION REQUIREMENT

Sir:

Responsive to the Restriction Requirement mailed July 3, 2002 for the above-captioned application, Applicants hereby elect costimulatory factors as a species for initial consideration in this application. This election is made with traverse.

Applicants point out that the restriction as to species, nor other objection based on lack of unity, was not made in this application during PCT processing. Thus, it is not clear why this action is deemed necessary at this time. Applicants point out that all of the species fall within a common genus, namely they are immunomodulatory proteins. Furthermore, the selection of part of the invention to find a lack of corresponding technical feature is in error. Applicants are not claiming the immunomodulatory species per se. Rather they are claiming an inventive concept in which a HSV amplicon and an immunomodulatory protein and an additional therapeutic protein are combined. This is the common inventive concept, and no restriction requirement is appropriate under PCT Rules.

Respectfully submitted,

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I hereby certify that this paper and any attachments named herein are being deposited with the US Postal Service as first-class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231 on July 30, 2002.

Marina T. Larson, PTO Reg. No. 32,038

July 30, 2002
Date of Signature